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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,017	12/08/2005	Karl Pfahler	095309.56028US	9291
23911 7590 01/11/2008 CROWELL & MORING LLP INTELLECTUAL PROPERTY GROUP P.O. BOX 14300 WASHINGTON, DC 20044-4300			EXAMINER EDELL, JOSEPH F	
			ART UNIT 3636	PAPER NUMBER
			MAIL DATE 01/11/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/528,017	Applicant(s) PFAHLER ET AL.	
	Examiner Joseph F. Edell	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>10/24/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,597,200 to Gregory et al. in view of U.S. Patent No. 5,902,014 to Dinkel et al.

Gregory et al. discloses a cushion that is basically the same as that recited in claims 4-7 except that the at least one shaft lacks a miniature fan, as recited in the claims. See Figures 2 and 3 of Gregory et al. for the teaching that the cushion has a cushion core 130 made of a foam material, an air and moisture permeable covering layer 142 by which the cushion core is lined, a network 114,126,132-137 formed in the cushion core that includes grooves spaced apart from one another which open toward the covering layer and channels which pass through an entire core thickness of the cushion core to open into the grooves at one end and to open out freely on an outer face of the cushion core at another end, and at least one shaft (center shaft 126) provided on the cushion core that passes completely through the core thickness and opens out in at least one of the grooves and opens on the outer face of the cushion core wherein the grooves are intersecting longitudinal grooves and transverse grooves

having intersection areas at which the channel open out, the at least one shaft being positioned in an intersection area of one of the longitudinal grooves and one of the transverse grooves, and the covering layer has a support of reticulated foam 140 and an air permeable lining 142 stretching across the support. Dinkel et al. show a cushion similar to that of Gregory et al. wherein the cushion has a cushion core 13 (see Fig. 2), at least one shaft 24, and a miniature fan 23 arranged in the at least one shaft that suck air from an air surrounding the cushion. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cushion of Gregory et al. such that the cushion has a miniature fan arranged in the at least one shaft that suck air from an air surrounding the cushion, such as the cushion disclosed by Dinkel et al. One would have been motivated to make such a modification in view of the suggestion in Dinkel et al. that the fan arranged in the cushion core takes air from the vehicle interior and blows it into cushion toward the user.

Response to Arguments

Applicant's arguments filed 24 October 2007 have been fully considered but they are not persuasive. Applicant argues that the combination of Gregory et al. in view of Dinkel et al. is inappropriate because the seat of Gregory et al. already has existing conditioned air flows. Gregory et al. teach a seat cushion that includes channels for distributing air. While Gregory et al. contemplate conditioned air flowing through the seat cushion channels, Dinkel et al. teach the utility in providing a fan to direct air through seat cushion channels. In view of the teachings of Dinkel et al., modifying the

seat cushion of Gregory et al. would not render the teachings of Gregory et al. inappropriate. Next, Applicant argues that modifying the seat cushion of Gregory et al. to include a fan would be ineffective to guide air along the seat cushion channels. While some channels of Gregory et al. may be upstream of the channel where a fan may be located, the use of a fan would aid in moving air through the channels -- not impede movement as asserted by Applicant. Upon consideration of Applicant's arguments, Examiner maintains the rejection.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


JOE EDELL
PRIMARY EXAMINER

Joe Edell
January 3, 2008